

SCOTT N. SCHOOLS (SC 9990)  
 United States Attorney

BRIAN J. STRETCH (CASBN 163973)  
 Chief, Criminal Division

BRYAN R. WHITTAKER (TX 24047097)  
 Special Assistant United States Attorney

1301 Clay Street, Suite 340S  
 Oakland, California 94612  
 Telephone: (510) 637-3680  
 Facsimile: (510) 637-3724  
 E-Mail: [bryan.whittaker@usdoj.gov](mailto:bryan.whittaker@usdoj.gov)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

UNITED STATES OF AMERICA,	)	Nos. C-07-3538-JLQ
	)	CR-94-0427-JLQ
Plaintiff,	)	
	)	
v.	)	
	)	
	)	
	)	
ANTHONY FLOWERS,	)	MOTION AND [PROPOSED] ORDER
	)	SETTING BRIEFING SCHEDULE
	)	RELATING TO DEFENDANT'S
	)	<u>§ 2255 PETITION</u>
Defendant.	)	
	)	

Defendant Anthony Flowers has filed a Petition Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody ("Petition"). The United States moves the Court to set a briefing schedule for the government's answer and for the defendant's reply. Through e-mail correspondence, this Court requested the U.S. Attorney's Office for the Northern District of California to assign an AUSA to make an appearance in the case and respond to the Petition within the time required by law. On August 17, 2007, Special Assistant United States Attorney, Bryan R. Whittaker filed an appearance in the case. Since then, the government has reviewed 24 of the 91 boxes of

1 documents in this case. Moreover, the government has also began reviewing the lengthy  
2 appellate record and has performed substantial legal research relating to the Petition.

3 The United States proposes that its answer be due sixty (60) days after the date of  
4 the [Proposed] Order. Sixty days is appropriate in this case because of the complexity of  
5 the case which includes a large and voluminous record. As the Court is fully aware, the  
6 trial in this matter lasted approximately four months. The defendant has also taken  
7 multiple appeals and has been sentenced two different times. Government counsel needs  
8 time to become familiar with and continue a review of the record so as to adequately  
9 respond to the defendant's claims. Moreover, the government is determining whether it  
10 will submit any affidavits to contradict the defendant's claims asserted in his Petition.  
11 For example, one individual who may submit an affidavit is former AUSA John Kennedy  
12 who tried the case and allegedly made a plea offer to Mr. Flowers' counsel. However,  
13 former AUSA Kennedy (now Judge Kennedy) is no longer with the U.S. Attorney's  
14 Office. Accordingly, the government will need time to contact Judge Kennedy and other  
15 various individuals to secure any necessary affidavits. Thus, given the circumstances of  
16 this case, sixty additional days to file a response is reasonable.

17 Furthermore, Rule 5(d) permits the moving party to "submit a reply to the  
18 respondent's answer or other pleading within a time fixed by the judge." Rule 5(d). The  
19 United States proposes that if the defendant files a reply, it should be due thirty (30) days  
20 after the United States files its answer.

21  
22 Respectfully submitted,  
23 SCOTT N. SCHOOLS  
United States Attorney

24 Dated: October 10, 2007

25 /S/  
BRYAN R. WHITTAKER  
26 Special Assistant United States Attorney

27 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
28 "conformed" signature (/S/) within this e-filed document.

[PROPOSED] O R D E R

After a review of the Petition, the Court finds that given the substantial record in this case, the government's need to review the record, and the government's need to obtain possible affidavits, a sixty (60) day deadline to file an answer is reasonable. Accordingly, the Court orders that the United State's answer is due within sixty (60) days from this signed Order. The Court further finds that if the defendant wishes to file a reply, such reply shall be due no later that thirty (30) days after the government's answer is filed.

IT IS SO ORDERED.

DATED: October \_\_, 2007

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HONORABLE JUSTIN L. QUACKENBUSH  
United States District Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of each of the following documents:

**MOTION AND [PROPOSED] ORDER SETTING BRIEFING SCHEDULE**  
**RELATING TO DEFENDANT'S § 2255 PETITION**

in United States v. Anthony Flowers, Nos.. C-07-3538-JLQ and CR-94-0427-JLQ was on  
this day mailed to the following persons:

Anthony Flowers, PRO SE  
Reg. No. 84687-011  
F.C.I. Oakdale  
P.O. Box 5000  
Oakdale, LA 71463

I certify under penalty of perjury that the foregoing is true and correct.

Executed on October 11, 2007, at Oakland, California.

/S/

Margaret Glyer - Legal Assistant  
United States Attorney's Office  
Oakland, California